

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RENEE M. BUTZ,

Plaintiff,

v.

LAWNS UNLIMITED LTD., and
EDWARD FLEMING,

Defendants.

C.A. No.: 05-495 (JJF)

**DEFENDANTS' ANSWER TO PLAINTIFF'S THIRD
AMENDED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 8, Defendants Lawns Unlimited, Ltd., and Edward Fleming (collectively, "Defendants"), state their answer presenting affirmative defenses, in accordance with Form 30, to Plaintiff's Third Amended Complaint¹ as follows:

RESPONDING TO ALLEGATIONS IN THE COMPLAINT

1. Defendants admit the allegations in paragraphs 2 and 3.
2. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraphs 7 and 9, insofar as they are not otherwise expressly admitted.
3. Defendants deny paragraphs 4, 5, 6, and 10-14.
4. Paragraph 1 states a legal conclusion to which Defendants are not required to respond.
5. Defendants admit that Plaintiff filed a Charge of Discrimination with the Delaware Department of Labor on February 17, 2004, and that Plaintiff attached a copy of a

¹ It appears that Plaintiff did not file a Second Amended Complaint in this matter but Defendants caption this pleading to correspond with the Court's docket. (D.I. 134).

Notice of Right to Sue, issued on June 9, 2006, by the Equal Employment Opportunity Commission.

FIRST DEFENSE

6. The Amended Complaint fails to state a claim upon which relief may be granted.

SECOND DEFENSE

7. The Amended Complaint is barred by the applicable statute of limitations.

THIRD DEFENSE

8. Plaintiff's claims are barred in whole or in part by her failure to exhaust all available statutory, administrative, or contractual remedies and/or other applicable federal or state statutes of limitation, jurisdiction, and/or administrative requirements.

FOURTH DEFENSE

9. Plaintiff's claims fail in whole or in part because at all times Defendants made a good faith effort to comply with applicable law, acted lawfully and with legitimate non-discriminatory business reasons that were not a pretext for unlawful discrimination.

FIFTH DEFENSE

10. Plaintiff's claims are barred in whole or in part with the doctrine of laches.

SIXTH DEFENSE

11. Plaintiff's claims are barred in whole or in part by her failure to mitigate damages.

SEVENTH DEFENSE

12. Plaintiff's claims are barred because the Court does not have jurisdiction over the persons.

EIGHTH DEFENSE

13. Plaintiff's Complaint may be denied in whole or in part due to insufficient service.

NINTH DEFENSE

14. Plaintiff's claims are barred in whole or in part for insufficient service of process.

TENTH DEFENSE

15. Plaintiff's Complaint may be denied in whole or in part with the doctrine of after-acquired evidence.

WHEREFORE, Defendants respectfully request that, having answered Plaintiff's Third Amended Complaint, judgment be entered against Plaintiff, with prejudice, as to each of Plaintiff's claims, and that Defendants be awarded their costs and reasonable attorney's fees and allow Defendants such other and further relief as the Court may deem just and proper in this case.

Respectfully submitted,

/s/ Margaret M. DiBianca

William W. Bowser, Esquire (Bar I.D. 2293)

Margaret M. DiBianca, Esquire (Bar I.D. 4539)

YOUNG CONAWAY STARGATT & TAYLOR, LLP

The Brandywine Building, 17th Floor

1000 West Street

P.O. Box 391

Wilmington, Delaware 19899-0391

Telephone: (302) 571-5008

Facsimile: (302) 576-3476

E-mail: mdibianca@ycst.com

Attorneys for Defendants

DATED: September 3, 2008

CERTIFICATE OF SERVICE

I, Margaret M. DiBianca, hereby certify that on September 3, 2008, I electronically filed a true and correct copy of the ***Defendants' Answer to Plaintiff's Third Amended Complaint*** with the Clerk of the Court using CM/ECF. I further certify that on September 3, 2008, I caused to be served a true and correct copy of the foregoing ***Defendants' Answer to Plaintiff's Third Amended Complaint*** via Certified U.S. Mail/Return Receipt Requested on the following plaintiff *pro se*:

Renee M. Butz
58 Hickory Drive
North East, Maryland 21901

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Margaret M. DiBianca

William W. Bowser, Esquire (Bar I.D. 2293)
Margaret M. DiBianca, Esquire (Bar I.D. 4539)
The Brandywine Building, 17th Floor
1000 West Street
P.O. Box 391
Wilmington, Delaware 19899-0391
Telephone: (302) 571-5008
Facsimile: (302) 576-3476
E-mail: mdibianca@ycst.com

Attorneys for Defendants